

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1281

To amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes during the period in which the United States was involved in World War II.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 1995

Mrs. MALONEY introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Permanent Select Committee on Intelligence and the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes during the period in which the United States was involved in World War II.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “War Crimes Disclosure  
3 Act”.

4 **SEC. 2. REQUIREMENT OF DISCLOSURE UNDER FOIA OF IN-**  
5 **FORMATION REGARDING INDIVIDUALS WHO**  
6 **COMMITTED NAZI WAR CRIMES.**

7 (a) IN GENERAL.—Section 552 of title 5, United  
8 States Code, is amended—

9 (1) by redesignating subsections (d), (e), and  
10 (f) as subsections (e), (f), and (g), respectively; and

11 (2) by inserting after subsection (c) the follow-  
12 ing new subsection:

13 “(d)(1)(A) Notwithstanding subsection (b), this sec-  
14 tion shall apply to any matter that relates to any individ-  
15 ual who, because the individual is potentially excludable  
16 from the United States under section 212(a)(3)(E)(i) of  
17 the Immigration and Nationality Act (8 U.S.C.  
18 1182(a)(3)(E)(i)), is listed in a Watch List.

19 “(B) For purposes of subparagraph (A), section  
20 212(a)(3)(E)(i) of the Immigration and Nationality Act  
21 (8 U.S.C. 1182(a)(3)(E)(i)) shall be applied by substitut-  
22 ing ‘December 11, 1941’ for ‘March 23, 1933’.

23 “(2) Paragraph (1) shall not apply to—

24 “(A) any matter that is referred to in sub-  
25 section (b)(6);

1           “(B) any matter the disclosure of which  
2 would—

3           “(i) reveal an intelligence agent whose  
4 identity currently requires protection;

5           “(ii) by revealing the name or identity of  
6 a living person who provided confidential infor-  
7 mation to the United States, constitute a sub-  
8 stantial risk of harm to such person; or

9           “(iii) compromise the existence of an un-  
10 derstanding of confidentiality currently requir-  
11 ing protection between an agent of the Govern-  
12 ment and a cooperating individual or a foreign  
13 government, and cause harm that outweighs the  
14 public interest in the disclosure;

15           “(C) any matter regarding which there is clear  
16 and convincing evidence that the threat to national  
17 security, military defense, intelligence operations, or  
18 the conduct of foreign relations of the United States  
19 outweighs the public interest in disclosure of the  
20 matter; or

21           “(D) any portion, of any matter, that—

22           “(i) does not relate to any individual re-  
23 ferred to in paragraph (1); and

1           “(ii) is reasonably segregable from any  
2           other portions of the matter that relate to an  
3           individual referred to in paragraph (1).

4           “(3) Any reasonably segregable portion of a matter  
5 referred to in subparagraph (A), (B), or (C) of paragraph  
6 (2) shall be provided, after deletion of all portions of the  
7 matter that are referred to in such subparagraph, to any  
8 person requesting the matter under this section if the rea-  
9 sonably segregable portion of the matter would otherwise  
10 be required to be disclosed under this section.

11          “(4) For purposes of this subsection, the term ‘Watch  
12 List’ means the Automated Visa Lookout System, or any  
13 other system or list that maintains information about the  
14 excludability of aliens under the Immigration and Nation-  
15 ality Act (8 U.S.C. 1101 et seq.) and is maintained by  
16 the Department of State or the Department of Justice.”.

17          (b) INAPPLICABILITY OF NATIONAL SECURITY ACT  
18 OF 1947 EXEMPTION.—Section 701 of the National Secu-  
19 rity Act of 1947 (50 U.S.C. 431) is amended—

20           (1) by redesignating subsections (e) and (f) as  
21 subsections (f) and (g), respectively; and

22           (2) by inserting after subsection (d) the follow-  
23 ing new subsection:

24          “(e) Subsection (a) shall not apply to any operational  
25 file, or any portion of any operational file, required to be

1 disclosed under section 552(d) of title 5, United States  
2 Code (Freedom of Information Act).”.

3 **SEC. 3. EFFECTIVE DATE.**

4       The amendments made by this Act shall take effect  
5 180 days after the date of the enactment of this Act.

